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REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)

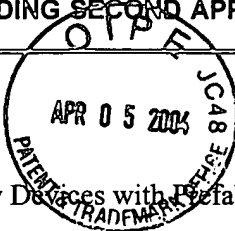
P02971

In re Application of: Michael J. Brubaker

Application No.: 10/034,795

Filed: December 27, 2001

For: Sustained Release Drug Delivery Devices with Prefabricated Permeable Plugs



The owner*, Bausch & Lomb Incorporated, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 10/023,391, filed on 12/17/01, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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2. ☒ The undersigned is an attorney or agent of record.

Paul T. Lavoie March 30, 2004
Signature Date

Paul T. Lavoie

Typed or printed name

(585) 338-6353

Telephone Number

04/06/2004 SDENBOB1 00000069 021425 10034795

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- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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